

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JIMMY DEAN MCCORMICK,)	
)	
Plaintiff,)	Civil Action No. 7:20cv00690
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
BRANDON TODD HALL,)	By: Hon. Thomas T. Cullen
)	United States District Judge
Defendant.)	

Plaintiff Jimmy Dean McCormick, proceeding *pro se*, filed this civil action under 42 U.S.C. § 1983. By orders entered November 19, 2020, December 3, 2020, and September 7, 2021, the court advised McCormick that he must immediately notify the court, in writing, if he is transferred or released *and* must provide the court with his new address at that time. (*See* ECF Nos. 3, 5, & 12.) The court further advised McCormick that failure to provide an updated address would result in dismissal of this action. (*Id.*) On March 16 and 20, 2023, orders mailed to McCormick were returned to the court as undeliverable and with no forwarding addresses. (*See* ECF Nos. 49 & 51.) To date, McCormick has not provided the court with an updated address.

Moreover, on March 6, 2023, staff at the Southwest Virginia Regional Jail Authority Haysi facility, where McCormick had been incarcerated, advised the court that McCormick had been released from incarceration on March 1, 2023. By order entered March 7, 2023, the court advised McCormick that, because he was no longer an inmate, he would not be allowed to pay the filing fee in installments under the Prison Litigation Reform Act. (*See* ECF No. 47.) The court ordered McCormick to pay the balance of the filing fee or otherwise respond to the

order within 30 days. (*Id.*) The court warned that failure to pay the filing fee or otherwise respond to the order would result in immediate dismissal of the action without prejudice. (*Id.*) That order was also returned to the court as undeliverable and, unsurprisingly, McCormick did not respond to the order.¹ The court has not received any correspondence from McCormick at all since February 1, 2023.

For these reasons, the court will dismiss this action without prejudice for failure to comply with the court's order and failure to prosecute. The court notes that this dismissal is without prejudice to McCormick's opportunity to refile his claims in a separate civil action, subject to the applicable statute of limitations.

The Clerk is directed to forward copies of this Memorandum Opinion and accompanying Order to counsel for defendant and to McCormick at his last known address.

ENTERED this 13th day of April, 2023.

/s/ Thomas T. Cullen
HON. THOMAS T. CULLEN
UNITED STATES DISTRICT JUDGE

¹ In addition, the court sent a Pretrial Order to McCormick; that Order was *not* returned to the court as undeliverable. (*See* ECF No. 46.) In that Order, the court imposed various deadlines for the preparation of trial, including a requirement that the parties submit proposed witness and exhibits lists at least 30 days before trial. (*Id.*) The jury trial is currently set for April 27–28, 2023, and McCormick has not submitted anything. Although it is possible that McCormick intends to present no evidence and call no witnesses at trial, the court finds that it is unlikely and, thus, McCormick has also failed to comply with those trial deadlines.